

## Professional Personnel

### Substitute Teachers

The Superintendent ~~or designee shall have the authority to~~ **may** employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher ~~shall~~ **must** hold a valid teaching or substitute certificate. Substitute teachers with a substitute certificate may teach only when an appropriate, fully certificated teacher is unavailable.

A substitute teacher may teach only for a period not to exceed 90 paid school days or 450 paid school hours in any one school district in any one school term. ~~or as amended by TRS regulations.~~ **However, a teacher holding an early childhood, elementary, high school, or special certificate may substitute teach for a period not to exceed 120 paid school days or 600 paid school hours in any one school district in any one school term, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists.**

The **School Board of Education** ~~shall~~ **annually establishes** a daily rate of pay for substitute teachers. No fringe benefits ~~shall be extended to~~ **are given** substitutes.

~~Substitute teachers are subject to and must be registered and certified to teach as defined by the State School Code of Illinois. A regular teaching day at the secondary level (middle and senior high schools) is considered to be five (5) contract or teaching hours.~~

- ~~A. If a substitute teacher replaces a teacher who has an extra assigned class, he/she will receive a proportionate increase for the extra hour(s) worked.~~
- ~~B. After a substitute teacher has taught in a position for a period of fifteen (15) consecutive days, he/she shall be paid at a higher rate as stipulated by the Board of Education. (Retroactive to the first day.)~~
- ~~C. In the event a substitute teacher contracts to teach in a position for a period of one full semester or more, he/she shall be placed on the current salary schedule in a position as determined by the Superintendent.~~

LEGAL REF.: 105 ILCS 5/21-9; **24-5.**

23 Ill.Admin.Code §1.790.

Adopted by Board Action 06/18/1985  
 Amended by Board Action 03/05/1991  
 Amended by Board Action 06/04/2001  
 Amended by Board Action 03/03/2003  
 Amended by Board Action 03/12/2009  
**Amended by Board Action 11/11/2010**

## **Instruction**

### **Credit for Alternative Courses and Programs, and Course Substitutions**

There are multiple, alternative methods to earn high school credit outside the traditional high school classroom.

#### **1. Correspondence Courses**

A student enrolled in a correspondence course may receive high school credit for work completed, provided:

1. The course is given by an institution accredited by the North Central Association of Colleges and Secondary Schools;
2. The student is a fourth or fifth year senior;
3. The student assumes responsibility for all fees; and
4. The Building Principal approves the course in advance.

A maximum of 2 units of credit may be counted toward the requirements for a student's high school graduation.

#### **2. GHS Credit Recovery Software**

Students may work with their counselor to develop a plan to recover credits needed to graduate. All Students wishing to recover credits must have the plan approved by the Building Principal. Students will only be allowed to recover credits of classes previously failed. Students will be limited to recovering credits for courses that are required for graduation, unless in certain situations a student has an alternative plan approved of by the Principal.

#### **3. Distance Learning Courses, Including Virtual or Online Courses**

A student enrolled in a distance learning course, including a virtual or online course, may receive high school credit for work completed, provided:

1. The course is offered by an institution approved by the Superintendent or designee;
2. The course is not offered at the student's high school;
3. The student assumes responsibility for all fees (including tuition and textbooks); and
4. The Building Principal approves the course in advance.

Students may be limited as to the number of distance learning courses that apply toward high school credit. Grades earned in approved distance learning courses count toward a student's grade point average, class rank, and eligibility for athletic and extra-curricular activities. The District may pay the fee for expelled students who are permitted to take virtual or online courses in alternative settings.

#### **4. Exchange Programs**

An exchange student will be granted a diploma only if he or she completes the criteria for graduation established by the State of Illinois and the School Board. The Board may grant a certificate of attendance to exchange students.

District students will receive high school credit for foreign exchange courses that meet the criteria established in the curriculum and that are approved by the Building Principal. International study course work not meeting District requirements may be placed in the student's permanent record and recorded as an international study experience.

### 5. Summer School and Independent Study

A student will receive high school credit for successfully completing: (1) any course given by an institution accredited by the North Central Association of Colleges and Secondary Schools, and (2) independent study in a curriculum area not offered by the District, provided the student obtains the consent of a supervising teacher as well as the Building Principal.

### 6. College Courses

A student who successfully completes community college courses may receive high school credit, provided:

1. The student is a senior in good academic standing;
2. The course is not offered in the high school curriculum;
3. The course is approved in advance by the student's guidance counselor and the High School Principal; and
4. The student assumes responsibility for all fees.

A maximum of 2 units of credit may be counted toward the requirements for a student's high school graduation.

### 7. Foreign Language Courses

A student will receive high school credit by studying foreign language in an approved ethnic school program, provided such program meets the minimum standards established by the State Board of Education.

The amount of credit will be based on foreign language proficiency achieved. The Building Principal may require a student seeking foreign language credit to successfully complete a foreign language proficiency examination.

### 8. Military Service

The Board may accept military service experience as credit toward graduation, provided the student making the request has a recommendation from the U.S. Commission of Accreditation of Service Experiences. The student seeking credit shall supply any documents or transcripts necessary to support the request.

### 9. Vocational Academy

Students enrolled in the Vocational Academy earn credit toward graduation as provided in the Academy's design. This includes coursework completed at the Area Career Center.

### Substitutions for Physical Education

A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated below. The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances.

1. Enrollment in a marching band program for credit;
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;
3. Ongoing participation in an interscholastic athletic program (student must be in the 11th or 12th grade). Ongoing participation is defined as continued participation in an athletic program without the student voluntarily quitting the team or being dismissed from the team by the coach/sponsor for rules violations. Students will be waived for one quarter for each

season in which s/he participates. Procedural guidelines are included in the course planning guide and student handbook;

4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade); or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade).

Students with Individualized Education Program and Physical Education Exemption

A student in grades 3-12 who is eligible for special education may be excused from physical education courses if:

1. The student's parent/guardian agrees that the student must utilize the time set aside for physical education to receive special education support and services, or
2. The student's individualized education program team determines that the student must utilize the time set aside for physical education to receive special education support and services.

The agreement or determination must be made a part of the individualized education program. A student requiring adapted physical education must receive that service in accordance with the student's individualized education program.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.  
23 Ill.Admin.Code §§1.420(p), 1.440(j), and 4.450(c).

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:320 (Credit for Proficiency), 7:260 (Exemption from Physical Activity)

Adopted by Board Action 06/01/1999  
Amended by Board Action 12/11/2008  
**Amended by Board Action 11/11/2010**

## Instruction

### High School Credit for Proficiency

#### Proficiency Credits

Subject to the limitations in this policy and State law, the Superintendent is authorized to establish and approve a program for granting credit for proficiency with the goal of allowing a student who would not benefit from a course because the student is proficient in the subject area to receive credit without having to take the course. A student who demonstrates competency under this program will receive course credit for the applicable course and be excused from any requirement to take the course as a graduation prerequisite. No letter grade will be given for purposes of the student's cumulative grade point average. The Superintendent or designee shall notify students of the availability of and requirements for receiving proficiency credit.

Proficiency credit will be offered in the following subject areas:

~~*Consumer education* — In order to receive credit, a student must pass the Annual Consumer Education Proficiency Test developed by the State Board of Education. A student in grades 9 through 12 is eligible to take the proficiency examination.~~

*Foreign language* - A student is eligible to receive one year of foreign language credit if the student has graduated from an accredited elementary school and can demonstrate proficiency, according to this District's academic criteria, in a language other than English. A student who demonstrates proficiency in American Sign Language is deemed proficient in a foreign language and will receive one year of foreign language credit. A student who studied a foreign language in an approved ethnic school program is eligible to receive appropriate credit according to the level of proficiency reached; the student may be required to take a proficiency examination.

*Other proficiency testing* - The program for granting credit for proficiency may allow, as the Superintendent deems appropriate, course credit to be awarded on the basis of a local examination to a student who has achieved the necessary proficiency through independent study or work taken in or through another institution. Proficiency testing may also be used to determine eligible credit for other subjects whenever students enter from non-graded schools, non-recognized or non-accredited schools, or were in a home-schooling program.

#### Course Credit for High School Diploma

The Superintendent or designee may investigate, coordinate, and implement a program **and schedules** for students in grades 7 and 8 to enroll in a course required for a high school diploma.

**Students in grades 7 and 8 may enroll in a course required for a high school diploma when:** ~~provided that:~~ (1) the course is offered by the high school that the elementary student would attend, (2) the student participates in the course at the location of the high school, and (3) the ~~elementary~~ student's enrollment in the course would not prevent a high school student from being able to enroll.

**Students in grades 7 and 8 may enroll in a course required for a high school diploma where they attend school when:** (1) the course is taught by a high school teacher who teaches in a high school of the district where the student will attend high school, and (2) no high school students are enrolled in the course.

A student ~~in the District, or transferring into the District,~~ who successfully completes a ~~high school~~ course **required for a high school diploma while in grades 7 and 8**, shall receive academic credit from the ~~School~~ Board. That academic credit shall satisfy the requirements of Section 27-22 of The School Code for purposes of receiving a high school diploma, unless evidence about the course's rigor and content show that the course did not address the relevant Illinois learning standard at the level appropriate for the high school grade during which the course is usually taken. **The student's grade in**

~~the course~~ Such a grade shall also be included in the student's **High School** grade point average in accordance with Board policy.

~~Students transferring into the District with high school course credit for courses that the student successfully completed pursuant to Section 27-22.10(a) of The School Code will be awarded credit according to State law.~~

LEGAL REF.: 105 ILCS 5/10-22.10, 5/10-22.43, 5/10-22.43a, 5/27-12.1, 5/27-22, 5/27-22.10, 5/27-24.3, and 5/27-24.4.  
23 Ill.Admin.Code §1.460.

CROSS REF.: 6:180 (Extended Instructional Programs), 6:280 (Grading and Promotion); 6:300 (Graduation Requirements), 6:310 (Credit for Alternative Courses and Programs, and Course Substitutions), 7:40 (Nonpublic School Students, Including Parochial and Home-Schooled Students)

Adopted by Board Action 06/01/1999  
Amended by Board Action 03/12/2009  
**Amended by Board Action 11/11/2010**

## Students

### Harassment of Students Prohibited <sup>1</sup>

#### Bullying, Intimidation, and Harassment Prohibited

No person, including a District employee or agent, or student, shall harass, intimidate, or bully ~~another a student based upon a student's~~ on the basis of actual or perceived: race;<sup>2</sup> color;<sup>2</sup> nationality;<sup>2</sup> sex;<sup>2</sup> sexual orientation;<sup>2</sup> gender identity; gender-related identity or expression; ancestry;<sup>2</sup> age;<sup>2</sup> religion;<sup>2</sup> ~~creed;~~ physical or mental disability;<sup>2</sup> ~~gender identity;~~ order of protection status;<sup>2</sup> status of being homeless;<sup>2</sup> ~~or;~~ actual or potential marital or parental status, including pregnancy;<sup>2</sup> association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. protected group status. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. <sup>2</sup>

~~Complaints of harassment, intimidation or bullying are handled according to the provisions on sexual harassment below. The Superintendent shall use reasonable measures to inform staff members and students that the District will not tolerate harassment, intimidation or bullying by including this policy in the appropriate handbooks.~~

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. Each district must have a policy on bullying (105 ILCS 5/27-23.7, amended by P.A. 96-952); see 7:180, Preventing Bullying, Intimidation, and Harassment.

This policy's list of protected classifications is identical to the list in 7:180, Preventing Bullying, Intimidation, and Harassment. The protected classifications are found in 105 ILCS 5/27-23.7(a), as amended by P.A. 96-952; 775 ILCS 5/1-103; and 23 Ill.Admin.Code §1.240. The bullying statute also includes unfavorable discharge from military service (105 ILCS 5/27-23.7(1), amended by P.A. 96-952); it is not included because of its irrelevance to students in K-12.

The list of protected classifications in sample policy 7:10, Equal Educational Opportunities, is different – it does not contain the classifications that are exclusively identified in the bullying statute (105 ILCS 5/27-23.7).

The Ill. Human Rights Act and an ISBE rule prohibit schools from discriminating against students on the basis of sexual orientation and gender identity (775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240). Sexual orientation is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." (775 ILCS 5/1-103(O-1). Gender identity is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms (775 ILCS 5/5-103). 775 ILCS 5/1-102(A), amended by P.A. 96-447, added order of protection status to its list of protected categories. The Ill. Human Rights Act's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2, added by P.A. 96-814).

<sup>2</sup> This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. West v. Derby Unified Sch. Dist., 206 F.3d 1358 (10th Cir. 2000).

## Sexual Harassment Prohibited

Sexual harassment of students is prohibited. <sup>3</sup> Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and engages in other verbal or physical conduct of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or
2. Has the purpose or effect of:
  - a. Substantially interfering with a student's educational environment;
  - b. Creating an intimidating, hostile, or offensive educational environment;
  - c. Depriving a student of educational aid, benefits, services, or treatment; or
  - d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.

The terms "intimidating," "hostile," and "offensive" include conduct that has the effect of humiliation, embarrassment, or discomfort.- Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities.

### Making a Complaint; Enforcement

Students ~~who believe they are victims of sexual harassment or have witnessed~~ are encouraged to report claims or incidences of bullying, harassment, sexual harassment, are encouraged to discuss or any other prohibited conduct to the ~~matter with the student~~ Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. ~~Students~~ A student may choose to report to a person of the student's same sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined.

An allegation that ~~one a~~ student was ~~sexually harassed a victim of any prohibited conduct perpetrated~~ by another student shall be referred to the Building Principal, Assistant Building Principal, or Dean of Students for appropriate action.

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<sup>3</sup> Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance (20 U.S.C. §1681). The sample policy's definition of sexual harassment does not distinguish between welcome and unwelcome behaviors - each is prohibited if it has a result described in sub-paragraph 1 or 2. See Mary M. v. North Lawrence Community School Corp., 131 F.3d 1220 (7th Cir., 1997) (An eighth grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment.).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. Gebser v. Lago Vista Independent School District, 118 S.Ct. 1989 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. Davis v. Monroe County Board of Education, 119 S.Ct. 1661 (1999). The Ill. Dept. of Human Rights now has jurisdiction over allegations that a school failed to take corrective action to stop severe or pervasive harassment of an individual based upon a protected category (775 ILCS 5/5-102.2, added by P.A. 96-814).



The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. <sup>4</sup> At least one of these individuals will be female, and at least one will be male.

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

The Superintendent shall use reasonable measures to inform staff members and students ~~that the District will not tolerate sexual harassment of this policy~~, such as, by including ~~this policy it~~ in the appropriate handbooks. <sup>5</sup>

Any District employee who is determined, after an investigation, to have engaged in ~~sexual harassment conduct prohibited by this policy~~ will be subject to disciplinary action up to and including discharge. Any District student who is determined, after an investigation, to have engaged in ~~sexual harassment conduct prohibited by this policy~~ will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the discipline policy. - Any person making a knowingly false accusation regarding ~~sexual harassment prohibited conduct~~ will likewise be subject to disciplinary action up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

~~The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.~~

<sup>4</sup> Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. ~~Each district must communicate its bullying policy to students and their parents/guardians (105 ILCS 5/27-23.7, amended by P.A. 96-952); see 7:180, Preventing Bullying, Intimidation, and Harassment.~~

<sup>5</sup> In addition to notifying students of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX (34 C.F.R. Part 106.8(a)). A comprehensive student handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Board of Education, 119 S.Ct. 1661 (1999).  
Franklin v. Gwinnett Co. Public Schools, 112 S.Ct. 1028 (1992).  
Gebser v. Lago Vista Independent School District, 118 S.Ct. 1989 (1998).  
West v. Derby Unified School District No. 260, 206 F.3d 1358 (10th Cir., 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited),  
7:10 (Equal Educational Opportunities), 7:[180 \(Preventing Bullying, Intimidation, and Harassment\)](#), 7:190 (Student Discipline)

## Students

### **Preventing Bullying, Intimidation, and Harassment <sup>1</sup>**

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate.- Preventing students from engaging in these disruptive behaviors is an important District goal.

Bullying on the basis of actual or perceived race, color, nationality, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in each of the following situations:

1. During any school sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school sponsored or school sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.

For purposes of this policy, the term *bullying* means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student in reasonable fear of harm to the student's person or property.
2. Causing a substantially detrimental effect on the student's physical or mental health.
3. Substantially interfering with the student's academic performance.
4. Substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying, intimidation, and/or harassment may take various forms, including without limitation: threats, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> All districts must have a policy on bullying (105 ILCS 5/27-23.7, amended by P.A. 96-952). The policy must be filed with ISBE; it must be updated every 2 years and again filed with ISBE. State law does not specify the content of the bullying policy.~~'s content.~~

This sample policy's first paragraph ~~and the numbered paragraphs allow~~ allows a school board to consider its goals for eliminating and preventing bullying; a board should amend the sample policy accordingly. The protected characteristics that are listed in the second paragraph are from 105 ILCS 5/27-23.7(a), as amended by P.A. 96-952; 775 ILCS 5/1-103; and 23 Ill.Admin.Code §1.240. The bullying statute also includes unfavorable discharge from military service (105 ILCS 5/27-23.7, amended by P.A. 96-952); it is not included because of its irrelevance to students in K-12. This policy's list of protected classifications is identical to the list in 7:20, *Harassment of Students Prohibited*. The definition of *bullying* (3rd paragraph) and the examples of various forms of bullying (4th paragraph) are from 105 ILCS 5/27-23.7, amended by P.A. 96-952.

Boards must annually communicate their bullying policy to students and their parents/guardians (see item 8 in the policy). This may be accomplished, in part, by including a statement, such as the following, in the student handbook and school website:

Bullying, intimidation, and harassment are not acceptable in any form and will not be tolerated at school or any school-related activity. The School District will protect students against retaliation for reporting incidents of bullying, intimidation, or harassment, and will take disciplinary action against any student who participates in such conduct.

The Superintendent or designee shall develop and maintain a program that:

1. Fully implements and enforces each of the following Board policies:<sup>2</sup>
  - a. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing ~~or intimidating, or bullying~~ a student based ~~upon a student's race, color, nationality, sex, sexual orientation, ancestry, age, religion, creed, physical or mental disability, gender identity, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, or other protected group status~~ on an actual or perceived characteristic that is identified in the policy. Each of those characteristics is also identified in this policy's second paragraph.
  - b. 7:190, *Student Discipline*. This policy prohibits students from engaging in hazing, bullying, or any kind of aggressive behavior that does physical or psychological harm to another or any urging of other students to engage in such conduct; prohibited conduct includes any use of violence, force, noise, coercion, threats, intimidation, fear, harassment, ~~bullying, hazing~~, or other comparable conduct.
  - c. 7:310, *Restrictions on Publications and Written or Electronic Material*. ~~This policy prohibits students from: (i) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (ii) creating and/or distributing written, printed, or electronic material, including photographs and Internet material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members.~~<sup>3</sup>
  - d. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use. It subjects any individual to the loss of privileges, disciplinary action, and/or appropriate legal actions for violating the District's *Authorization of Electronic Network Access*.
2. Examines the appropriate steps to understand and rectify conditions that foster bullying, intimidation, and harassment; this contemplates taking action to eliminate or prevent these disruptive behaviors beyond traditional punitive disciplinary actions.
3. Includes bullying prevention and character instruction in all grades in accordance with State law and Board policy 6:60, *Curriculum Content*.<sup>4</sup> This includes incorporating student social

Full implementation of the above policies includes: (a) conducting a prompt and thorough investigation of alleged incidents of bullying, intimidation, harassing behavior, or similar conduct, (b) providing each student who violates one or more of these policies with appropriate consequences and remedial action, and (c) protecting students against retaliation for reporting such conduct.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>2</sup> ~~The list of protected statuses is found in 23 Ill.Admin.Code §1.240, amended Sept. 2009, and 775 ILCS 5/1-103(Q), amended by P.A. 96-447, eff. 1-1-10.~~ Be sure the referenced board policies, as adopted locally, contain the language paraphrased in this policy. If not, either substitute similar language from the locally adopted board policies on the same topics, or just insert the titles from relevant locally adopted policies.

<sup>3</sup> School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus expression is much more limited than expression on school grounds. However, school officials may generally: (1) remove a student from extracurricular activities when the conduct code for participation requires students to conduct themselves at all times as good citizens and exemplars of the school (see 7:240, *Conduct Code for Participants in Extracurricular Activities*); and (2) suspend or expel a student from school attendance when the student's expression causes substantial disruption to school operations.

<sup>4</sup> 105 ILCS 5/27-23.7, amended by P.A. 96-952.

and emotional development into the District's educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*. <sup>5</sup>

4. Fully informs staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes: (a) communicating the District's expectation – and the State law requirement – that teachers and other certificated employees maintain discipline, <sup>6</sup> and (b) establishing a process for staff members to fulfill their obligation to report alleged acts of bullying, intimidation, harassment, and other acts of actual or threatened violence.
5. Encourages all members of the school community, including students, parents, volunteers, and visitors, to report alleged acts of bullying, intimidation, harassment, and other acts of actual or threatened violence.
6. Actively involves students' parents/guardians in the remediation of the behavior(s) of concern. This includes ensuring that all parents/guardians are notified, as required by State law, whenever their child engages in aggressive behavior. <sup>7</sup>
7. Communicates the District's expectation that all students conduct themselves with a proper regard for the rights and welfare of other students. This includes a process for commending or acknowledging students for demonstrating appropriate behavior.
8. Annually communicates this policy to students and their parents/guardians. <sup>8</sup> This includes annually disseminating information to all students and parents/guardians explaining the serious disruption caused by bullying, intimidation, or harassment and that these behaviors will be taken seriously and are not acceptable in any form.
9. Engages in ongoing monitoring that includes collecting and analyzing appropriate data on the nature and extent of bullying in the District's schools and, after identifying appropriate indicators, assesses the effectiveness of the various strategies, programs, and procedures and reports the results of this assessment to the Board along with recommendations to enhance effectiveness.
10. Complies with State and federal law and is in alignment with Board policies. This includes prompting the Board to update the policy beginning every 2 years after its initial adoption and filing this policy with the Illinois State Board of Education after the Board adopts or updates it. <sup>9</sup>

This policy is not intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 or 4 of Article 1 of the Ill. Constitution. <sup>10</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>5</sup> 405 ILCS 49/.

<sup>6</sup> Required by 105 ILCS 5/24-24.

<sup>7</sup> 105 ILCS 5/10-20.14; see 7:190-E, *Aggressive Behavior Reporting Letter and Form*.

<sup>8</sup> Required by 105 ILCS 5/27-23.7(d), amended by P.A. 96-952.

<sup>9</sup> Id.

<sup>10</sup> The bullying statute also contains this caveat (Id.).

LEGAL REF.: 405 ILS 49/, Children's Mental Health Act.  
105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.  
23 Ill.Admin.Code §§1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:190 (Student Discipline), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:[285 \(Food Allergy Management Program\)](#), 7:310 (Restrictions on Publications and Written or Electronic Material)

## Students

### Student Discipline <sup>1</sup>

#### Prohibited Student Conduct <sup>2</sup>

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco materials. <sup>3</sup>
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. <sup>4</sup> Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, or selling:
  - a. Any illegal drug, controlled substance, or cannabis (including marijuana and hashish). <sup>5</sup>
  - b. Any anabolic steroid unless being administered in accordance with a physician's or licensed practitioner's prescription. <sup>6</sup>
  - c. Any performance-enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription. <sup>7</sup>
  - d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions.
  - e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.

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<sup>1</sup> All districts must have a policy on student discipline, including corporal punishment (105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280). Teachers and other certificated employees must maintain discipline (105 ILCS 5/24-24). Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precisions as criminal statutes. *Bethel School Dist. v. Fraser*, 106 S.Ct. 3159 (1986).

<sup>2</sup> Boards for elementary districts may customize the items listed as *prohibited student conduct* that clearly will not apply to their students.

<sup>3</sup> Federal law prohibits smoking within schools by anyone (Pro-Children Act of 1994, 20 U.S.C. §6081). Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See policy 8:30, *Visitors to and Conduct on School Property*, for more information.

<sup>4</sup> Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

<sup>5</sup> Controlled substance is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, "marihuana" or "marijuana," is correct; however, "marijuana" is more common.

<sup>6</sup> Anabolic steroid is defined in 720 ILCS 570/102.

<sup>7</sup> 105 ILCS 25/~~1-52~~, added by P.A. 96-132 and recodified by P.A. 96-1000, requires IHSA to prohibit a student from participating in an IHSA-sponsored athletic competition unless the student has agreed not to use any performance-enhancing substances on IHSA's current banned drug list and to submit to performance-enhancing substance testing. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

- f. “Look-alike” or counterfeit drugs, including a substance not containing an illegal drug or controlled substance, but one: (a) that a student believes to be, or represents to be, an illegal drug or controlled substance; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug or controlled substance. <sup>8</sup>
- g. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. <sup>9</sup>

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

- 4. Using, possessing, controlling, or transferring a “weapon” as that term is defined in the *Weapons* section of this policy, or violating the *Weapons* section of this policy. <sup>10</sup>
- 5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student’s individualized education program (IEP); or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals. <sup>11</sup>
- 6. Using or possessing a laser pointer unless under a staff member’s direct supervision and in the context of instruction.

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<sup>8</sup> “Look-alike” and counterfeit substances are defined in 720 ILCS 570/102. “Look-alike” drugs should be defined; an unpublished Ill. Court of Appeals decision in 2000 found a board policy prohibiting possession of “look-alikes” to have vagueness problems.

<sup>9</sup> Drug paraphernalia is defined in 720 ILCS 600/2.

<sup>10</sup> This language is broader than the *Weapons* section of this policy. The *Weapons* section contains the statutorily required punishment for “a student who is determined to have brought” a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6, amended by P.A. 96-633). The language in item #4 is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the *Weapons* section.

<sup>11</sup> 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones (105 ILCS 5/10-20.28). Camera phones are now common and their misuse could seriously invade a student’s privacy. A board wanting a sweeping prohibition may use the following alternative for item 5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934 (47 U.S.C. §§301, 302a, and 333). Fines for a first offense can range as high as \$11,000 for each violation or imprisonment for up to one year, and the device may also be seized by the U.S. government. 47 U.S.C. §§501-510.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a felony (720 ILCS 5/26-4). A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision (705 ILCS 405/3-40, added by P.A. 96-1087, eff. 1-1-11).



7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or ~~any~~ urging ~~of~~ other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, ~~intimidation, fear~~ stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. **12**
10. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **13**
11. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **14**
12. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. **15**
13. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **16**

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**12** All districts must have a policy on bullying (105 ILCS 5/27-23.7(d), amended by P.A. 96-952). Policy 7:180, *Preventing Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. Implementing procedures must include a method for informing parents/guardians when their child or ward engaged in aggressive behavior as well as early intervention procedures based upon available community and district resources. See 7:190-E, *Aggressive Behavior Reporting Letter and Form*.

A trial court's order enjoining a student's expulsion for committing aggressive behavior was overturned in Wilson ex rel. Geiger v. Hinsdale Elementary School Dist. 181, 810 N.E.2d 637 (Ill.App.2, 2004). The board expelled an 11-year-old student for bringing 2 CDs to school containing a song entitled, "Gonna Kill Mrs. Cox's Baby." Mrs. Cox was the student's pregnant science teacher. The student was expelled for the remainder of the school year for violating the district's policy prohibiting aggressive behavior. The Court of Appeals reversed the trial court's temporary restraining order (that had stopped the penalty's imposition until after a trial) finding that the student had violated school rules subjecting him to exclusion and that the penalty was not unreasonable, arbitrary, capricious, or oppressive. ~~The district's policy prohibiting aggressive behavior was substantially identical to the PRESS policy.~~

See also Gendelman v. Glenbrook North High School and Northfield Township School District 225, 2003 WL 21209880 (N.D.Ill., 2003)(student suspensions for hazing were upheld).

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, disability, or national origin of another person, he or she commits assault or battery (720 ILCS 5/12-7.1). The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1, amended by P.A. 96-772, makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**13** 720 ILCS 5/26-1, amended by P.A. 96-772, makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**14** 105 ILCS 5/26-2a, 5/26-9, and 5/26-12. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

**15** State law requires schools to suspend or expel any student who engages in this activity (105 ILCS 5/31-3).

14. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, and hazing.
15. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>17</sup>

For purposes of this policy, the term “possession” includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student’s person; (b) contained in another item belonging to, or under the control of, the student, such as in the student’s clothing, backpack, or automobile; (c) in a school’s student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. <sup>18</sup>

Efforts, including the use of early intervention and progressive discipline, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or ~~physiological~~ psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident. <sup>19</sup> The failure to provide such notification does not limit the Board’s authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student’s parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. <sup>20</sup>

The grounds for disciplinary action, including those described more thoroughly later in this policy, apply whenever the student’s conduct is reasonably related to school or school activities, including, but not limited to: <sup>21</sup>

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<sup>16</sup> See Kelly v. Board of Educ. of McHenry Community High School Dist. 156, 2007 WL 114300 (N.D.Ill., 2007)(upheld student’s expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board’s insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy). Significantly, the General Assembly recognized in 105 ILCS 5/27-23.7(a), that “[g]iven the higher rates of criminal offending among gang members, as well as the availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.”

<sup>17</sup> 740 ILCS 147/15 et seq. allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

<sup>18</sup> A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 16: “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

<sup>19</sup> “Possession” should be defined to avoid vagueness problems.

<sup>20</sup> See footnote 9-12.

<sup>21</sup> Mandated by 105 ILCS 5/10-20.36.

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. **22**

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**21** A school's power over students does not cease when students leave the campus. However, Illinois statutes do not describe when a school may suspend or expel a student. Thus, board policy must provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Rules taking jurisdiction of off-campus misconduct generally survive the test of reasonableness if they are limited to situations having a direct nexus to the school. Jurisdictional rules in board policy should generally be as broad as possible in order to give staff members authority to respond to unforeseen situations. However, a countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. There are many decisions on disciplining a student for off-campus misconduct; for examples, see: Morse v. Frederick, 127 S.Ct. 2618 (2007) (held school's compelling interest in stopping student drug abuse allows schools to prohibit student speech that maybe reasonably regarded as promoting illegal drug use). Boucher v. School District of Greenfield, 134 F.3d 821 (7th Cir., 1998)(upheld expulsion for off-campus speech – an article explaining how to hack into the school's computers); Giles v. Brookville Area School District, 669 A.2d 1079 (Pa. Commw. 1995)(upheld expulsion for selling marijuana to another student off-campus where negotiations took place on campus); J.S. v. Bethlehem Area School District, 807 A.2d 847 (Pa. 2002)(suspension upheld for posting on a private web site derogatory, offensive, and threatening statements directed toward a teacher); Wisniewski v. Board of Education of Weedsport Cent. School District, 494 F3d 34 (2<sup>nd</sup> Cir. 2007), (upheld suspension for off-campus speech - an instant message icon illustrating a pistol firing a bullet at teacher's head with words "kill Mr. Vandermolen."); Doe v. Pulaski County Special School, 306 F.3d 616 (8<sup>th</sup> Cir., 2002) (vacated holding in Doe v. Pulaski County Special School, 263 F.3d 833 (8th Cir., 2001), holding that the school board did not violate the student's First Amendment rights when it expelled him for writing a letter at home referring to killing his girlfriend).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

According to the Civil No Contact Order Act, a judge may order a student who has committed non-consensual sexual contact against another student, or who has aided and abetted such an act, to transfer to another school; the parents/guardians are responsible for transportation and other costs associated with the transfer (740 ILCS 22/213, added by P.A. 96-311). The school district is not a party to a petition for a Civil No Contact order, and will probably not be notified before it is issued. School officials should immediately seek the board attorney's advice on managing such the order.

**22** Suspending or expelling a student for off-campus misconduct is problematic when the school's jurisdiction is premised on nothing more than "the student's presence at school may reasonably be considered to create an interference with school purposes or an educational function." If possible, other grounds for jurisdiction should be added. The factual context will determine jurisdiction. Even when there is no other jurisdictional ground, if the nature of the conduct is particularly troublesome, a detrimental impact on the school can be inferred. See Doe v. Superintendent of Schools of Stoughton, 767 N.E.2d 1054 (Mass., 2002)(suspension for off-campus commission of a felony was upheld).

## Disciplinary Measures 23

Disciplinary measures may include: 24

1. Disciplinary conference.
2. Withholding of privileges.
3. Seizure of contraband.
4. Suspension from school and all school activities for up to 10 days, provided that appropriate procedures are followed. 25 A suspended student is prohibited from being on school grounds.
5. Suspension of bus riding privileges, provided that appropriate procedures are followed. 26
6. Expulsion from school and all school-sponsored activities and events for a definite time period not to exceed 2 calendar years, provided that the appropriate procedures are followed. 27 An expelled student is prohibited from being on school grounds. 28
7. Notifying juvenile authorities or other law enforcement whenever the conduct involves illegal drugs (controlled substances), “look-alikes,” alcohol, or weapons.
8. Notifying parents/guardians.
9. Temporary removal from the classroom.
10. In-school suspension for a period not to exceed 5 school days. The Building Principal or designee shall ensure that the student is properly supervised. 29
11. After-school study or Saturday study 30 provided the student’s parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary

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23 Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which “shocks the conscience.” While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials.

An example of the judicial reluctance to interfere is Tun v. Whitticker, 398 F.3d 899 (7th Cir., 2005). A student named Brandon brought a substantive due process claim against the school for expelling him without evidence of wrongdoing. Brandon and three others were expelled for allowing nude pictures of themselves to be taken in the school shower. After Brandon appealed using the school’s procedures, the expulsion was rescinded and his record expunged of any reference to the incident. Brandon, however, brought a federal court action alleging that his substantive due process rights were violated. While the Court believed that school officials overacted to boys “just horsing around,” it did not believe the expulsion amounted to a substantive due process violation - it fell short of the required “shocks the conscience” standard.

24 Most school attorneys advise against using a grade reduction as a disciplinary measure. One case upheld the application of such a policy. Knight v. Board of Education, 348 N.E.2d 299 (Ill.App. 4, 1976). Another case, however, found unconstitutional, a grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension. Smith v. School City of Hobart, 811 F.Supp. 391 (N.D.Ind., 1993).

25 105 ILCS 5/10-22.6. The next sentence is optional.

26 Id.

27 105 ILCS 5/10-22.6. The Indiana Supreme Court upheld a policy to deny semester credit to a student expelled anytime during the semester. South Gibson School Board v. Sollman, 768 N.E.2d 437 (Ind. 2002). An optional provision, such as the following, should first be discussed with the board’s attorney before adoption:

Unless the Building Principal determines otherwise, a student expelled anytime during a semester will be denied credit for the semester regardless of whether the student had completed sufficient course work to earn a passing grade before being expelled.

28 Optional (105 ILCS 5/10-22.6).

29 State law does not cover in-school suspensions. Generally, an educational program must be included in an in-school suspension; otherwise, it may become a regular suspension with procedural requirements.

measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.

12. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs. <sup>31</sup> The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure giving the student and/or parent/guardian the choice.

A student who is subject to suspension or expulsion may be eligible for transfer to an alternative school program. <sup>32</sup>

Corporal punishment ~~shall not be used.~~ is prohibited. Corporal punishment is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. <sup>33</sup>

#### Weapons <sup>34</sup>

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than 2 calendar years:

1. A firearm, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act (430 ILCS 65/), or firearm as defined in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).
2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including “look alike” of any firearm as defined above.

The expulsion requirement under either paragraph 1 or 2 above may be modified by the Superintendent, and the Superintendent’s determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. <sup>35</sup>

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<sup>30</sup> Teachers may not be required to teach on Saturdays (105 ILCS 5/24-2).

<sup>31</sup> Optional. See Herndon v. Chapel Hill-Carrboro City Bd., 89 F.3d 174 (C.A. 4, 1996)(upheld policy requiring students to complete community service in order to graduate).

<sup>32</sup> 105 ILCS 5/10-22.6.

<sup>33</sup> This paragraph paraphrases 105 ILCS 5/24-24.

<sup>34</sup> This section restates 105 ILCS 5/10-22.6, amended by P.A. 96-633. See also the Gun-Free Schools Act, 20 U.S.C. §7151 et seq. This section contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6, amended by P.A. 96-633). Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the *Weapons* section.

When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of “firearm”– not just The School Code. Analyzing the student’s circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, 618 N.E.2d 561 (Ill.App., 1993).

<sup>35</sup> Optional.

## Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. <sup>36</sup> Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, State Police, and any involved student's parent/guardian. <sup>37</sup> "School grounds" includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

## Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. <sup>38</sup> Teachers may temporarily remove students from a classroom for disruptive behavior. <sup>39</sup>

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to 10 consecutive school days, provided the appropriate procedures are followed. <sup>40</sup> The Board may suspend a student from riding the bus in excess of 10 school days for safety reasons. <sup>41</sup>

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<sup>36</sup> 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. "School grounds" includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

<sup>37</sup> Id. State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, State Police, and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

<sup>38</sup> Required by 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280.

<sup>39</sup> Id.

<sup>40</sup> Required by 105 ILCS 5/10-22.6, amended by P.A. 96-998.

<sup>41</sup> Id.

## Student Handbook

The Superintendent, with input from the parent-teacher advisory committee, <sup>42</sup> shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

LEGAL REF.: Gun-Free Schools Act, 20 U.S.C. §7151 et seq.  
Pro-Children Act of 1994, 20 U.S.C. §6081.  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, and 5/31-3.  
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline),  
6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out  
of School and Graduation Incentives Program), 7:70 (Attendance and Truancy),  
7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150  
(Agency and Police Interviews), 7:160 (Student Appearance), 7:170  
(Vandalism), 7:180 (Preventing Bullying, Intimidation, and Harassment ), 7:200  
(Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct),  
7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for  
Participants in Extracurricular Activities), 7:270 (Administering Medicines to  
Students), 7:310 (Restrictions on Publications and Written or Electronic  
Material), 8:30 (Visitors to and Conduct on School Property)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>42</sup> The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See policy 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

## Students

### Food Allergy Management Program <sup>1</sup>

School attendance may increase a student's risk of exposure to allergens that could trigger a food-allergic reaction. A food allergy is an adverse reaction to a food protein mediated by the immune system which immediately reacts causing the release of histamine and other inflammatory chemicals and mediators. While it is not possible for the District to completely eliminate the risks of exposure to allergens when a student is at school, a Food Allergy Management Program using a cooperative effort among students' families, staff members, and students helps the District reduce these risks and provide accommodations and proper treatment for allergic reactions. <sup>2</sup>

The Superintendent or designee shall develop and implement a Food Allergy Management Program that: <sup>3</sup>

1. Fully implements the following goals established in The School Code: (a) identifying students with food allergies, (b) preventing exposure to known allergens, (c) responding to allergic reactions with prompt recognition of symptoms and treatment, and (d) educating and training all staff about management of students with food allergies, including administration of medication with an auto-injector, and providing an in-service training program for staff who work with students that is conducted by a person with expertise in anaphylactic reactions and management.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> 105 ILCS 5/2-3.149, added by P.A. 96-349 and renumbered by P.A. 96-1000, requires school boards to implement a policy not later than January 1, 2011 that is based upon the joint State Board of Education (ISBE) and Ill. Dept. of Public Health (IDPH) publication titled *Guidelines for Managing Life-Threatening Food Allergies in Schools*, (*ISBE/IDPH Guidelines*). Administrative procedures referencing the *ISBE/IDPH Guidelines* must support this policy in order to comply with the law. See the discussion in f/n 3 below and 7:285-AP1, *Administrative Procedure-Implementing a Food Allergy Management Program* for a sample implementation procedure.

This legislation stems from data showing that the number of children being diagnosed with food allergies is increasing. Every food-allergic reaction can develop into a life-threatening reaction and, even with proper treatment, can be fatal. See the *ISBE/IDPH Guidelines*, pages 7 and 8, citing Sampson, H.A., *Food Allergy*, from *Biology Toward Therapy, Hospital Practice*, available at: [www.isbe.net/nutrition/pdf/food\\_allergy\\_guidelines.pdf](http://www.isbe.net/nutrition/pdf/food_allergy_guidelines.pdf).

<sup>2</sup> This end statement requires board work and should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption. A food allergy management program should promote prevention and management of life-threatening allergic reactions (see 105 ILCS 5/2-3.149(b) and *ISBE/IDPH Guidelines*, on p. 7). For more information on ends statements and governance, see IASB's *Foundational Principles of Effective Governance* at: [www.iasb.com/principles\\_popup.cfm](http://www.iasb.com/principles_popup.cfm).

The clause "using a cooperative effort among students' families, staff members, and students" is optional and can be removed. The purpose of the clause is to share responsibility for management among the district, staff, and food-allergic students and their families.

<sup>3</sup> 105 ILCS 5/10-20. To balance the requirement to implement a policy based upon the *ISBE/IDPH Guidelines* (105 ILCS 5/2-3.149(b) with the practicalities of managing a district, this paragraph delegates the board's implementation duty to the superintendent.

Number one outlines the goals that the legislature directed ISBE and IDPH to include in the *ISBE/IDPH Guidelines* (105 ILCS 5/2-3.149(a)-(c). The in-service training program is required by 105 ILCS 5/10-22.39(e), added by P.A. 96-349 and recodified by P.A. 96-1000. Boards may add further expectations and include additional goals that reflect those expectations here.

Number two balances the requirements of the law with the practicalities of managing a district by referencing the *ISBE/IDPH Guidelines* (105 ILCS 5/2-3.149(b). The publication is 78 pages and adopting the entire document as policy is not practical. Further, not every portion of the publication applies to every district's needs.



2. Follows and references the applicable best practices specific to the District's needs in the joint State Board of Education and Ill. Dept. of Public Health publication *Guidelines for Managing Life-Threatening Food Allergies in Schools*, available at:  
[www.isbe.net/nutrition/pdf/food\\_allergy\\_guidelines.pdf](http://www.isbe.net/nutrition/pdf/food_allergy_guidelines.pdf).
3. Complies with State and federal law and is in alignment with Board policies.

LEGAL REF.: 105 ILCS 5/2-3.149 and 5/10-22.39.  
*Guidelines for Managing Life-Threatening Food Allergies in Schools (Guidelines)*,  
jointly published by the State Board of Education and Ill. Dept. of Public Health.

CROSS REF.: 4:110 (Transportation), 4:120 (Food Services), 4:170 (Safety), 5:100 (Staff Development Program), 6:120 (Education of Children with Disabilities), 6:240 (Field Trips), 7:250 (Student Support Services), 7:270 (Administering Medicines to Students), 8:100, (Relations with Other Organizations and Agencies)